



## TEXAS DEPARTMENT OF INSURANCE

### Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

COMPLIANCE TOXICOLOGY, LLC

**Respondent Name**

TPCIGA FOR PETROSURANCE CASUALTY CO

**MFDR Tracking Number**

M4-17-974-01

**Carrier's Austin Representative**

Box Number 50

**MFDR Date Received**

JUNE 8, 2017

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "Dr. Villacres indicates in his office notes of 09/29/2016 that the claimant's prior physician moved to Baytown. It is the belief of this healthcare provider that this change in treating doctors qualifies as an exception and the claimant was entitled to an office visit with this choice of treating doctors. Urine drug testing is recommended for new patients and preauthorization was not required."

**Amount in Dispute:** \$2,251.68

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Dr. David Villacres is the referring provider for these services performed on 09/29/2016. Dr. Villacres was not approved as the treating doctor for the work injury of 01/23/2001 until 10/04/2016. Therefore, he was not approved to refer the claimant for treatment until 10/04/2016 and after. Attached is a copy of the DWC-53 form."

**Response Submitted by:** ReviewMed

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 29, 2016	HCPCS Code G0479	\$529.84	\$0.00
	HCPCS Code G0483	\$1,721.84	\$0.00
TOTAL		\$2,251.68	\$0.00

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

## **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §126.9 sets out the provisions for choice of treating doctor and liability of payment.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - 184-The prescribing/ordering provider is not eligible to prescribe/order the service billed. Dr. Villacres was not approved by DWC until 10/04/16.
  - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - W3-Request for reconsideration.

## **Issues**

Is the requestor entitled to reimbursement for professional services rendered on September 29, 2016?

## **Findings**

1. According to the explanation of benefits, the disputed urinary drug test were denied reimbursement based upon "184-The prescribing/ordering provider is not eligible to prescribe/order the service billed. Dr. Villacres was not approved by DWC until 10/04/16."
2. The requestor indicates that payment is due because "the claimant's prior physician moved to Baytown. It is the belief of this healthcare provider that this change in treating doctors qualifies as an exception and the claimant was entitled to an office visit with this choice of treating doctors. Urine drug testing is recommended for new patients and preauthorization was not required."
3. The respondent contends that no reimbursement is due because "Dr. David Villacres is the referring provider for these services performed on 09/29/2016. Dr. Villacres was not approved as the treating doctor for the work injury of 01/23/2001 until 10/04/2016. Therefore, he was not approved to refer the claimant for treatment until 10/04/2016 and after. Attached is a copy of the DWC-53 form."

In support of the position the respondent submitted a copy of a DWC-53 that supports that on the disputed date of service Dr. Fariborz Nazari-Adli was the treating doctor. The division approved the request to change treating doctors from Dr. Nazari-Adli to Dr. Villacres on October 4, 2016.

4. Texas Labor Code §408.022 titled *Selection of Doctor*, states, "(a) Except in an emergency, the division shall require an employee to receive medical treatment from a doctor chosen from a list of doctors approved by the commissioner. A doctor may perform only those procedures that are within the scope of the practice for which the doctor is licensed. The employee is entitled to the employee's initial choice of a doctor from the division's list." The submitted documentation did not support that the disputed services were provided in an emergency situation; therefore, Dr. Nazari-Adli was responsible for managing the claimant's treatment.
5. Texas Labor Code §408.022 (e)(4) states, "For purposes of this section, the following is not a selection of an alternate doctor: (4) the selection of a doctor because the original doctor: (A) dies; (B) retires; or (C) becomes unavailable or unable to provide medical care to the employee." The requestor indicated that "the claimant's prior physician moved to Baytown."
6. 28 Texas Administrative Code §126.9(d) states, "If an injured employee wants to change treating doctors, other than exceptions as described in Texas Civil Statutes, Article 8308-4.64, or removal of the doctor from the list, the employee shall submit to the field office handling the claim, reasons why the current treating doctor is unacceptable. Unless medical necessity exists for an immediate change, the submission shall be in writing on a form prescribed by the commission. If the need for an immediate change exists, then the injured employee may notify the field office by telephone. Injured employees who change doctors because the doctor is removed from the list or for one of the exceptions listed in Texas Civil Statutes, Article 8308-4.64, shall immediately notify the commission of the change in the form and format prescribed by the commission."

7. 28 Texas Administrative Code §126.9(f) states, "The commission shall issue an order approving or denying a change of doctor request. This order shall be issued within 10 days after receiving the request and, if a change is approved, shall include an order for the insurance carrier to pay for treatment provided by the approved doctor unless superseded by a subsequent order." The division finds that the insurance carrier is not liable for payment of the disputed services because: the requestor was not the treating doctor; and no documentation was submitted to support that the treating doctor referred claimant for testing.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

_____	_____	06/28/2017
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**